

Short Title: Real Prop. Partition/Carrying Costs.

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT IN A REAL PROPERTY PARTITION PROCEEDING, A
COTENANT HAS A RIGHT TO CONTRIBUTION FOR THE COTENANT'S
PAYMENT OF CARRYING COSTS AND FOR THE VALUE ADDED TO THE REAL
PROPERTY BY THE COTENANT'S IMPROVEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 46 of the General Statutes is amended by adding
a new section to read:

"§ 46-3.2. Carrying costs, property taxes, and improvements; right to contribution.

(a) Right to Contribution; Offset. – In a real property partition proceeding initiated under this Chapter, a cotenant has a right to contribution from the other cotenants for the cotenant's payment of the real property's carrying costs and for the value added to the real property by the cotenant's improvements. The cotenant's right to contribution is subject to an offset in the amount of the fair market rental value of the cotenant's occupation of the real property.

(b) Application. – At any time during a real property partition proceeding, a cotenant may on application assert the cotenant's right to contribution provided in subsection (a) of this section. Another cotenant may respond to the cotenant's application by asserting the offset provided in subsection (a) of this section.

(c) Carrying Costs. – For purposes of this section, "carrying costs" means the actual costs of preserving the value of and the cotenants' interests in the real property, including payments for a loan to acquire the real property, homeowner's insurance, repairs, and property taxes.

1 (d) Property Taxes. – A cotenant's right to contribution for property taxes under
2 subsection (a) of this section is limited to the amount of property taxes paid by the cotenant
3 during the 10 years preceding the filing of the partition petition, plus interest at the legal rate
4 under G.S. 24-1.

5 (e) Scope. – Nothing in this section affects the rights of cotenants outside a real
6 property partition proceeding initiated under this Chapter."

7 **SECTION 2.** This act becomes effective [October 1, 2018], and applies to real
8 property partition proceedings commenced on or after that date.